

PATENT  
450100-02515**REMARKS**

It is submitted that these claims, as originally presented, are patentably distinct over the prior art cited by the Examiner, and that these claims were in full compliance with the requirements of 35 U.S.C. §112. Changes to these claims, as presented herein, are not made for the purpose of patentability within the meaning of 35 U.S.C. §101, §102, §103 or §112. Rather, these changes are made simply for clarification and to round out the scope of protection to which Applicant is entitled.

**I. STATUS OF THE CLAIMS AND FORMAL MATTERS**

Claims 1, 8, and 9 have been canceled without prejudice or disclaimer of subject matter. Claims 2-7, 10 and 11 are pending in this application. Claim 11 is independent. Claim 11 is hereby amended. Support for this amendment is provided at page 22 of the Specification as originally filed. No new matter has been introduced.

**II. REJECTIONS UNDER 35 U.S.C. §102(b)**

Claims 2-4, 6, 7, and 11 were rejected under 35 U.S.C. 102(b) as allegedly anticipated by Herz et al. (U.S. Patent No. 5,758,257).

Independent claim 11 recites, *inter alia*:

“... wherein said selecting means prevents overlapping of the programs as a function of a consecutive channel changing number and a total virtual channel number.”  
(emphasis added)

It is respectfully submitted that Herz as applied by the Examiner (hereinafter, merely “Herz”) does not disclose or suggest the above-identified features of

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claim 11. Specifically, Applicant submits that nothing has been found in Herz that would teach or suggest preventing overlapping of the programs as a function of a consecutive channel changing number and a total virtual channel number, as recited in claim 11. Accordingly, it is believed that claim 11 is patentable.

### III. DEPENDENT CLAIMS

Claim 5 was rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al. (5,758,257), in view of Hodge et al. (U.S. Patent No. 6,564,381).

Claim 5 depends from independent claim 11 and, as such, is also believed to be distinguishable over Herz for at least the reasons previously described. The Examiner apparently does not rely on Hodge to overcome the above-described deficiencies of Herz. Accordingly, it is believed that claim 5 is distinguishable over the applied combination of Herz and Hodge.

The other claims in this application are each dependent from one of the independent claims discussed above and are therefore believed patentable for at least the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

### CONCLUSION

In the event the Examiner disagrees with any of statements appearing above with respect to the disclosures in the cited reference it is respectfully requested that the Examiner specifically indicate those portions of the reference providing the basis for a contrary view.

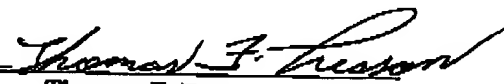
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In view of the foregoing amendments and remarks, it is believed that all of the claims in this application are patentable and Applicant respectfully requests early passage to issue of the present application.

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